

**Introduced by Senator Yee**

February 20, 2008

---

An act to amend Section 1219 of the Code of Civil Procedure, relating to civil procedure.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1356, as introduced, Yee. Contempt: victim of domestic violence.

Existing law generally empowers a court to punish for acts of contempt, including authorizing a court to direct the incarceration of a defendant until he or she complies with the court's order. Existing law provides exceptions to this general rule by providing that (1) a court may not imprison a victim of sexual assault for contempt when the contempt consists of refusing to testify concerning that sexual assault; and (2) in a finding of contempt for a victim of domestic violence who refuses to testify, the court shall not incarcerate the victim, but may require the victim to attend a domestic violence program for victims or perform appropriate community service, provided that in a subsequent finding of contempt for refusing to testify arising out of the same case, the court shall have the option of incarceration.

This bill would revise the above provisions to provide, instead, that in a finding of contempt for a victim of sexual assault or domestic violence for refusing to testify concerning the sexual assault or domestic violence, the court may not imprison the victim of sexual assault or domestic violence.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1219 of the Code of Civil Procedure is amended to read:

1219. (a) Except as provided in subdivisions (b) and (c), when the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment.

(b) Notwithstanding any other law, no court may imprison or otherwise confine or place in custody the victim of a sexual assault *or domestic violence* for contempt when the contempt consists of refusing to testify concerning that sexual assault *or domestic violence*.

~~(c) In a finding of contempt for a victim of domestic violence who refuses to testify, the court shall not incarcerate the victim, but may require the victim to attend up to 72 hours of a domestic violence program for victims or require the victim to perform up to 72 hours of appropriate community service, provided that in a subsequent finding of contempt for refusing to testify arising out of the same case, the court shall have the option of incarceration pursuant to subdivision (a).~~

~~(d)~~

(c) As used in this section, *the following terms have the following meanings:*

(1) “Sexual assault” means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code.

(2) “Domestic violence” means “domestic violence” as defined in Section 6211 of the Family Code.